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190757

Emergency Ordinance

***Authorize Bureau of Transportation to acquire certain permanent and temporary rights necessary for construction of the NE 42nd Ave Bridge over NE Lombard Project through the exercise of the City's Eminent Domain Authority**

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland may exercise the power of eminent domain pursuant to Section 9-108 of the City Charter and in accordance with Eminent Domain procedures provided for in ORS Chapter 35 (Eminent Domain; Public Acquisition of Property), including those procedures that apply to notification, valuation, negotiation, relocation and early possession if necessary, when the exercise of such power is deemed necessary by the City Council to accomplish public purposes for which the City has responsibility.
2. The City of Portland has the responsibility of providing safe transportation routes for commerce, convenience and to adequately serve the traveling public.
3. The project known as NE 42nd Ave Bridge over NE Lombard Project (the "Project") has been planned in accordance with appropriate engineering standards for the construction, maintenance or improvement of said transportation infrastructure such that property damage is minimized, transportation promoted, and travel safeguarded.
4. The Project will repair the current bridge over NE Lombard Street, which is on a recommended emergency transportation route and vulnerable to earthquakes. The Project will raise the height and strengthen the support of the bridge to allow more freight carriers access as a connection between NE Lombard and NE Columbia. In addition, the Project will provide a new connection between the

Introduced by

[Commissioner Jo Ann Hardesty](#)

Bureau

[Transportation](#)

Contact

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Right of Way Agent III

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Requested Agenda Type

Regular

Holman neighborhood greenway and NE 47th Ave with new bike lanes and wider sidewalks for pedestrian safety across NE 42nd Ave.

5. To accomplish the Project set forth above, it is necessary to acquire the following property interests described and depicted in Exhibits 1 through 20, attached to this Ordinance, and by this reference incorporated herein.
6. All affected property owners have been contacted and informed as to the City's need for certain private property rights related to completion of the Projects. All affected property owners have been invited, by mailing, to attend the reading of this agenda item.

NOW, THEREFORE, the Council directs:

- A. That it is hereby declared that it is necessary to acquire the property interests described and depicted in Exhibits 1 through 20 to this Ordinance for the Project, for which the City is authorized by law to acquire property, and that the Project has been planned, designed, located, and will be constructed in a manner which will be most compatible with the greatest public good and the least private injury.
- B. That the Director of the Bureau of Transportation or designee and/or City Attorney are authorized to acquire necessary permanent and temporary rights for the Project under the Eminent Domain Authority of the City, including filing an action to acquire the property interests described herein or negotiating just compensation with property owners within available project budget funds. The Director of the Bureau of Transportation or designee and/or the City Attorney are further authorized to enter into obligations agreements with property owners to address construction management concerns within available project budget funds.
- C. That the power of eminent domain is hereby exercised with respect to each of the interests in property described and depicted in Exhibits 1 through 20. Each is acquired subject to payment of just compensation and subject to procedural requirements of Oregon law.
- D. That the Bureau of Transportation's staff and the Office of the City Attorney are authorized to attempt to agree with the owner and other persons in interest as to the compensation to be paid for each acquisition, and, in the event that no satisfactory agreement can be reached, to commence and prosecute such condemnation proceedings as may be necessary to finally determine just compensation or any other issue appropriate to be determined by a court in connection with the acquisition. This authorization is not intended to expand the jurisdiction of any court to decide matters

determined above or determinable by the City Council.

- E. That the Bureau of Transportation is authorized to determine the continuing necessity or propriety of the acquisition authorized by this Ordinance, its quantity, quality, or locality, and to reduce or abandon any acquisition described in Exhibits 1 through 20.
- F. There is hereby authorized the creation of a fund in the amount estimated to be the just compensation for each interest in the property which, if necessary, shall be deposited with the clerk of the court where an action is commenced.
- G. The Mayor and City Auditor are hereby authorized to pay for the property rights from the Transportation System Operating Fund Budget when demand is presented and approved by the proper authority.

Section 2. The Council declares that an emergency exists because delay in property acquisition may result in a delay in construction and impact the overall project completion; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Documents and Exhibits

 [Exhibits 1-20](#) (7.81 Mb)

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
March 30, 2022

Auditor of the City of Portland
Mary Hull Caballero

Impact Statement

 [Impact Statement](#) (32.66 Kb)

Budget Office Financial Impact Analysis

This legislation seeks to authorize PBOT to acquire certain permanent and temporary rights necessary for construction of the NE 42nd Ave Bridge through the exercise of the City's Eminent Domain Authority. Property values associated with the property acquisitions have not yet been quantified since negotiations are undergoing. As far as the right of way, an estimate for this phase has been budgeted in the Transportation Operating Fund. The level of confidence for the estimate is low to moderate. Funds have been budgeted in PBOT's FY 2021-22 Adopted Budget. Funding

sources include SDC, HVUT, House Bill 2017, Build Portland, developer contributions, and the General Fund. This legislation would not affect staffing levels nor result in a new or modified financial obligations or benefit now or in the future.

Agenda Items

229 Regular Agenda in [March 30, 2022 Council Agenda](#)

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Jo Ann Hardesty Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea